

RECEIVED  
SDNY PRO SE SERVICE  
JUL 15 AM 9:30  
UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

Jerome Smith

**16CV563,9**

Write the full name of each plaintiff.

No. \_\_\_\_\_  
(To be filled out by Clerk's Office)

-against-

**COMPLAINT**

(Prisoner)

NYCPD, PROPERTY DIVISION, NYCPD 106th Precinct

Police Officer Andres Gonzales (shield#

18702,

Do you want a jury trial?

☒ Yes ☐ No

Write the full name of each defendant. If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed above must be identical to those contained in Section IV.

**NOTICE**

The public can access electronic court files. For privacy and security reasons, papers filed with the court should therefore *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number. See Federal Rule of Civil Procedure 5.2.

**I. LEGAL BASIS FOR CLAIM**

State below the federal legal basis for your claim, if known. This form is designed primarily for prisoners challenging the constitutionality of their conditions of confinement; those claims are often brought under 42 U.S.C. § 1983 (against state, county, or municipal defendants) or in a "Bivens" action (against federal defendants).

☐ Violation of my federal constitutional rights

☒ Other: Violation of Policy, Procedure, and Protocol

**II. PLAINTIFF INFORMATION**

Each plaintiff must provide the following information. Attach additional pages if necessary.

<u>Jerome</u>		<u>Smith</u>
First Name	Middle Initial	Last Name

#441-15-09006

State any other names (or different forms of your name) you have ever used, including any name you have used in previously filing a lawsuit.

#441-15-09006

Prisoner ID # (if you have previously been in another agency's custody, please specify each agency and the ID number (such as your DIN or NYSID) under which you were held)

G.R.V.C.

Current Place of Detention

09-09- Hazzen Street

Institutional Address

East Elmhurst

N.Y.

11370

County, City

State

Zip Code

**III. PRISONER STATUS**

Indicate below whether you are a prisoner or other confined person:

☒ Pretrial detainee

☐ Civilly committed detainee

☐ Immigration detainee

☐ Convicted and sentenced prisoner

☐ Other: \_\_\_\_\_

## IV. DEFENDANT INFORMATION

To the best of your ability, provide the following information for each defendant. If the correct information is not provided, it could delay or prevent service of the complaint on the defendant. Make sure that the defendants listed below are identical to those listed in the caption. Attach additional pages as necessary.

Defendant 1: **NYCPD, Property Division**

First Name	Last Name	Shield #
<b>Property Clerk</b>		
Current Job Title (or other identifying information)		
<b>1 Police Plaza, Room 208</b>		
Current Work Address		
<b>New York</b>	<b>N.Y.</b>	<b>10038</b>
County, City	State	Zip Code

Defendant 2: **NYCPD 106th Precinct**

First Name	Last Name	Shield #
<b>106th Precinct</b>		
Current Job Title (or other identifying information)		
<b>103-53 101st Street</b>		
Current Work Address		
<b>Ozone Park</b>	<b>N.Y.</b>	<b>11417</b>
County, City	State	Zip Code

Defendant 3:

First Name	Last Name	Shield #
<b>Andres</b>	<b>Gonzales</b>	<b>18702</b>
Current Job Title (or other identifying information)		
<b>Police Officer</b>		
<b>103-53 101st Street</b>		
Current Work Address		
<b>Ozone Park</b>	<b>N.Y.</b>	<b>11417</b>
County, City	State	Zip Code

Defendant 4:

First Name	Last Name	Shield #
Current Job Title (or other identifying information)		
Current Work Address		
County, City	State	Zip Code

**V. STATEMENT OF CLAIM**

Place(s) of occurrence: 106tgh Precinct

Date(s) of occurrence: October 29, 2015, November 9, 2015, Feburary 18, 2016

**FACTS:**

State here briefly the FACTS that support your case. Describe what happened, how you were harmed, and how each defendant was personally involved in the alleged wrongful actions. Attach additional pages as necessary.

*[Handwritten text: "SEE EXHIBIT" with a large "X" over it]*

On or about the 29th day of October 2015 Plaintiff was stopped by Police Officer Gonzales, accusing Plaintiff of committing a crime. In doing so, Plaintiff vehicle, 1999 Lexus GS 300 vin#JT8BD68S1X0059881(hereinafter Plaintiff vehicle), was driving to 106th Precinct while Plaintiff was being arrested and fingerprinted.

Prior to leaving the 106th Precinct Plaintiff was giving a voucher #40-00351199 of the above mentioned vehicle as "arrest evidence". Note, at this point Plaintiff's vehicle was "Open-Ceu Review Pending", therefore, not finalized as being "approved for arrest evidence", thus, not considered date of incident or injury, or damages, hence, 90 day period not commenced.(see exhibit A).

On or about the 9th day of November 2015 a notice was sent to Plaintiff's residence (375 Blake Avenue) informing Plaintiff that my vehicle was being "considered" for "forfeiture" if Plaintiff did "not agree to pay" 1,500 dollars for the vehicle return, Plaintiff was flabbergasted by such statement (see exhibit B).

In receiving this information from my significant other Plaintiff ordered her to mail the document to the correctional facility (VCBC) promptly. When Plaintiff received the said document at the prison Plaintiff responded immediately to attempt to clarify any discrepancy, if any (see exhibit C). It must be noted that Plaintiff did not receive a response for clarification nor finalization on forfeiture, thus, 90 days has not commenced thus far.

On or about the 1st day of March 2016, at VCBC prison, Plaintiff received a "summons with notice" index# 450228/2016 "filed 2/18/16" informing Plaintiff that his vehicle was being "forfeiture" (finalization) as well as a "demand for complaint" by Mr. Zachary W. Carter (see exhibit D).

Although Plaintiff received the summons on 3/1/16, however, Plaintiff did respond in the 20 day time period allotted by counsel, in letter form,

for "Demand to Produce Complaint" in order to remain in compliance with counsel's demand (see exhibit E). Note at the submitting of this complaint Plaintiff has yet to receive a response to the "Demand to Produce Complaint" hence, unable to provide said document as an exhibit.

Indeed, after receiving said "finalization (forfeiture)" on or about the 1st day of March 2016 and responding to "request" for demand to Produce, Plaintiff realized after, comparing other "vouchers" received from discovery, that "all" other "vouchers" deemed "arrest evidence" were approved and sign by Sgt. Joseph Mascia tax ID #905564 at the 106th Precinct "except for Plaintiff's vehicle voucher #4000351199.

Clearly, such action, no question, raises suspiciousness. As well as demonstrates "deviation from protocol" and/or "chain of command" and express total disregard for "policy and procedure", which incidently, is "arbitrary in its entirety", thus, "personal vendetta towards Plaintiff from Police Officer Andres Gonzales shield #18702 (see exhibits marked 1,2,3 respectively to compare and contrast with exhibit A)".

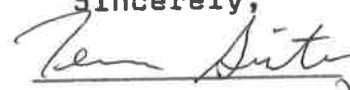
Nevertheless, Plaintiff responded to the summons (finalization) as well as attempted to wait for the "demand to produce complaint" to have a full understanding as to why Plaintiff's vehicle was being forfeiture in a timely fashion, with respect to "Notice of Intention to File Claim" dated May 17, 2016 (see exhibit F).

In light of the above mention facts, and no response thus far, Plaintiff was compelled to submit this claim. Moreover, it must be noted that Plaintiff placed in the mailroom, at GRVC Correctional Facility- via certified mail #7014 0150 0001 0242 2102, the "Notice of Intent" to the appropriate agency (Office of the Comptroller)(see exhibit G), therefore, Plaintiff is not responsible for facilities mail system, with respect to outgoing mail.

Nonetheless, Plaintiff received a document from the above mention agency informing Plaintiff that said "notice of intent" is "disallowed" (see

exhibit H). Further, Plaintiff cannot grasp this statement because after examining the documents enclosed Plaintiff concluded that one is unable to submit a "notice of intent" until "finalization" of occurrence and/or "injury or damages" has taken Place. Therefore, Plaintiff was in fact timely. That is, finalization, in this case, did not occur until Plaintiff recieved "summons" on or about 3/1/16, which was dated 2/18/16, thus, submitting "notice of intent" on 5/17/16 was timely, hence, proper notice to appropriate agency-Office of the Controller.

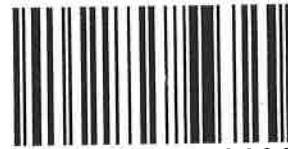
Sincerely,

  
Without prejudice - PRO PER





**NYPD PETS** PROPERTY and EVIDENCE  
TRACKING SYSTEM  
**Property Clerk Invoice**  
PD 521-141 (Rev. 11/09)

Invoice No. **4000351199**Invoice Date  
**10/29/2015**Invoice Status  
**OPEN-CEU REVIEW PENDING**Invoicing Command  
**106TH PRECINCT** Property Type  
**VEHICLE / BOAT** Property Category  
**ARREST EVIDENCE**

Officers	Rank	NAME	Tax No.	Command	
Invoicing			943311	106TH PRECINCT	ADA Office
Arresting			943311	106TH PRECINCT	ADA Name
Investigating					ADA Phone
Det. Squad Supervisor					Det. Sqd Case No. N/A
CSU/ECT Processing					CSU/ECT Run No. N/A
Owner Notified By			943311	106TH PRECINCT	Date: Time:

How the Owner was Notified: **Person**

**Vehicle Details**

Vehicle year: **1999** Make: **LEXUS** Model: **ES** Type: **4 DOOR SEDAN** Color: **GRAY**

Veh. Ident. No: **JT8BD68S1X0059881** No. of Lic. Plates: **2** Lic. Plate No.: **HBU1070** State: **NY - US**

Cert. Of Inspection: Ser. No: State: **NY - US** Yr. **2016** Vehicle Running: **YES**

PETS# **5699936**

Additional description: .

Location Veh/Boat Obtained: **103 STREET CENTREVILLE STREET, QUEENS, NY-11417**Time: **11:41** Date: **10/29/2015** Personel Property Removed: **NO** Recovery Premise Type:

Department Tow Operator: Name:

Alarm No: Truck #

REMARKS:  
**943311 10/29/2015 19:42 : ABOVE VEHICLE IS BEING VOUCHERED AS ARREST EVIDENCE PETS SEAL#5699936**

Date of Incident	Penal Code/Description	Class Classification	Related To	Receipt
10/29/2015	16015/ROBBERY	FELONY		ACCEPTED

Prisoner(s) Name	D.O.B	Age	Address	Arrest No.	NYSID No.
1 SMITH, JEROME	09/12/1967	48	375 BLAKE AVENUE, BROOKLYN, NY	Q15656843	05117117N

Related Comp No.(s) **N/A**

Complaint No. **2015-106-06472**

Aided/Accident No.(s) **N/A**

Related Invoice(s) **N/A**

**Inspection Details**Invoice No. **4000351199**

WHY IS P.O. GONZALES ~~X~~ NOTE: I wonder if they will attempt to produce a fictitious signed voucher?

SIGNATURE ON EVERY OTHER VOUCHER EXCEPT THIS CAR VOUCHER?

Prisoner / Finder / Owner Copy

PCD Storage No. --

Printed: 10/29/2015 19:45

Page No. 1 of 3

Exhibit B (of 2)

Mail out the "Demand to Produce Compliant" on March 8, 2016 as well as a copy of this "Voucher".





**NYPD PETS** PROPERTY and EVIDENCE  
TRACKING SYSTEM  
**Property Clerk Invoice**  
PD 521-141 (Rev. 11/09)

Invoice No. **4000351199**

Inspection Desc: INVOICING INSPECTION

10/29/2015 19:39 Inspection Performed by ANDRES, GONZALEZ Tax ID: 943311

No of Tires: **04** No of Airbags: **02** Battery: **YES** Radio: **AM / FM** Additional Audio Equipment: **CASSETTE PLAYER**  
 Special Wheels: **NONE** Wheel Covers: **NONE** Keys with Vehicle: **IGNITION ONLY** Trunk: **LOCKED** Glove Compartment: **LOCKED**  
 Exterior Condition: **POOR** Interior Condition: **POOR** Odometer Reading: **TMU**

Additional equipment or Accessories:  
(Indicate Which)

List Missing or Damaged Parts: **OTHER**  
(Indicate Which)

**DING AND SCRATCHES AROUND VEHICLE**

Approvals	Rank	Name	Tax No.	Command	Date	Time
Entered by			<b>943311</b>	<b>106TH PRECINCT</b>	<b>10/29/2015</b>	<b>19:30</b>
Invoicing Officer			<b>943311</b>	<b>106TH PRECINCT</b>	<b>10/29/2015</b>	<b>19:43</b>
Approved By			<b>905564</b>	<b>106TH PRECINCT</b>	<b>10/29/2015</b>	<b>19:43</b>

A Not signed by Supervisor,  
Sgt.

Invoice No. **4000351199**

Prisoner / Finder / Owner Copy

printed: 10/29/2015 19:45

PCD Storage No. --

Page No. 2 of 3

(2 of 2) A



POLICE DEPARTMENT  
LEGAL BUREAU  
CIVIL ENFORCEMENT UNIT  
2 LAFAYETTE STREET-5th Floor  
NEW YORK, N.Y. 10007-1307

November 9, 2015

JEROME SMITH  
375 BLAKE AVENUE  
BROOKLYN, NY 11417

Re: PROPERTY CLERK v. JEROME SMITH  
Seizure # 15-1857

Mr./Mrs./Ms. JEROME SMITH:

A 1999 LEXUS, Vehicle Identification Number JT8BD68S1X0059881 (hereinafter "subject vehicle"), seized at the time of your arrest of is in the custody of the Property Clerk, New York City Police Department and is subject to forfeiture under the *Rules of the City of New York*. The Property Clerk, New York City Police Department will file, or already has filed, a civil court action in Supreme Court, New York County seeking the forfeiture of the subject vehicle.

At this time, the forfeiture action against the subject vehicle is being considered for settlement. The terms of the proposed settlement are as follows:\*

1. Payment of a fee of \$1,500.00 by official bank check or certified check payable to *Property Clerk, NYPD* in the form of an official bank check or a United States Postal Service money order. Please be advised that the NYPD reserves the right not to accept any check dated more than 30 days from the time of receipt by NYPD personnel in the settlement of this action. Therefore, it is recommended that you not obtain the check until all the other terms of the settlement offer have been complied with; and
2. An additional non-waivable storage facility fee of \$75 must be paid directly at the storage facility upon retrieving your vehicle. If the vehicle is not retrieved in a timely fashion after release by our office, additional storage fees may begin to accrue and be required to be paid at the storage facility before the release of the vehicle; and
3. Signing the enclosed *Hold Harmless Agreement*; and
4. Prior to the vehicle's release, you must show through documentation that the subject vehicle is not needed as evidence in the criminal proceeding by providing the NYPD Legal Bureau with a *District Attorney's Release* or a certified *Court Disposition* showing the completion of the criminal proceeding.
5. \*\*\*\* If you wish to surrender title of the vehicle to the NYPD please contact us at the number below to make the necessary arrangements.

Therefore, should you desire to settle this action as indicated, please return the enclosed *Agreement of Settlement* within ten business days. **Be advised, a failure to return the *Agreement of Settlement* will be deemed a rejection of the terms of settlement and the NYPD will proceed with forfeiture.** Terms of the settlement must be fulfilled within three (3) months from the date that the settlement offer is received.

\*Discretion as to whether the terms of settlement have been fulfilled rests entirely with the NYPD.

Very truly yours,  
Vehicle Seizure Unit  
(917) 454-1111

\*\*\*\*\*If you have any further questions, please contact us at (917) 454-1111\*\*\*\*\*

Exhibit B (1 of 1)

To whom it may concern,

My NAME is Jerome Smith and I received a letter from your Agency informing me that I'm being charge a large sum in order to retrieve my vehicle.

Such information is hard to phantom. First, Officer Gonzalez chose to implement my vehicle in a crime, which is the sole reason of my vehicle being in your possession not on account for anything other, therefore, to be penalize for a NYC Detectives (Gonzalez) action is hard to phantom.

Further, I am currently incarcerated at (UCBC) ONE Halleck St. Bronx, N.Y. 10474, and as of this letter the District Attorney, Rosemary Chao (District Attorney Career Criminal Major Crimes Bureau (718) 286-7062) is holding my vehicle at your lot and/or impound as evidence, therefore, I'm not responsible for the extended period of time my vehicle has been sitting on your

Exhibit C (1 of 3)



lot because I attempted to have my family member to pick up my vehicle, however, each time they were turned away by your Agency stating, "The vehicle is being held as evidence". Thus, I'm not responsible for the delay. If there is some problem that has occurred your Agency must take it up with the District Attorney, Rosemary Chao. Hence, to accuse me of owing funds to your Agency and threatening to forfeit my vehicle - for reason(s) that are out of my hands - will demonstrate arbitrary actions and a abuse of authority, which incidently, is a direct violation to "Rules of the City of New York". Therefore, I strongly suggest that your Agency rectify this issue with Rosemary Chao (District Attorney) otherwise I will be compelled to seek other recourse to rectify the escalating issues at hand, due to

Case 1:16-cv-05639-UA Document 2 Filed 07/15/16 Page 13 of 30  
Your Agency WASTE TO ~~WASTE~~ my  
VEHICLE.

Enclose you will find a copy of the  
letter from your agency as well as a  
copy of the VOUCHER of my vehicle illust-  
rating that upon ARREST my vehicle was  
SEIZES AND impounded AS EVIDENCE ALONG  
with the PETS SEAL #5699936.

Indeed, if there is ANY OTHER  
CONCERNS, with RESPECT to my vehicle, do NOT  
hesitate to NOTIFY ME at the following:-

SEIZURE # 15-1857	Jerome Smith
INVOICE # 4000351199	# 441-15-09006
PETS # 5699936	UCBC
ARREST DATE: 10/29/15	ONE HALLECK St.
ARREST # Q15656843	BRONX, N.Y. 10474
# 15J003839	

SWORN to ME THIS  
26 day of January  
2016  
Jose L Pimentel  
NOTARY PUBLIC

Jose L Pimentel  
Notary Public State of NY  
No 03-4837175  
Qualified in Bronx County  
Commission Expires Sept 30, 2017

Sincerely,  
Jerome Smith  
JEROME Smith

NYSCEF DOC. NO. 1

RECEIVED NYSCEF: 02/18/2016

SUPREME COURT STATE OF NEW YORK  
COUNTY OF NEW YORK

PROPERTY CLERK, NEW YORK CITY  
POLICE DEPARTMENT,

Plaintiff,

- against -

JEROME SMITH AND LEON CARTER,

Defendants.

SUMMONS WITH NOTICE

Index No: 450228/2016

Filed On: February 18, 2016

TO THE ABOVE NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED and required to serve upon the plaintiff's attorney, at the address below, a notice of appearance or a demand for a complaint within twenty (20) days after service of this summons, exclusive of the day of service, or within thirty (30) days if this summons is not personally delivered to you within the State of New York.


TAKE NOTICE that this is an action for forfeiture seeking a 1999 LEXUS bearing Vehicle Identification Number JT8BD68S1X0059881 seized pursuant to the arrest of JEROME SMITH on October 29, 2015 for Burglary in the First Degree and Grand Larceny in the Fourth Degree in violation of New York Penal Law. In the event of your failure to answer, judgment will be taken against you by default for the 1999 LEXUS, with interest thereon, together with the costs of this action.

The basis of the venue designated is the plaintiff's principal place of business, which is One Police Plaza, New York, New York.

DATED: February 18, 2016  
New York, New York

ZACHARY W. CARTER, ESQ.  
Corporation Counsel, City of New York  
LAWRENCE BYRNE, ESQ.  
Deputy Commissioner, Legal Matters  
New York City Police Dept.  
Attorney for Plaintiff

By:

  
ANDREW J. BOTELHO, ESQ.  
2 Lafayette Street, 5<sup>th</sup> Floor  
New York, New York 10007  
(917) 454-1155; S# 15-1857

RECEIVED ON

3/1/16

Approximately

1:30 pm

Exhibit D (1 of 3)



**SUPREME COURT OF THE STATE OF NEW YORK**  
**COUNTY OF NEW YORK**

Property Clerk, New York City Police Department,

Plaintiff/Petitioner,

- against -

Index No. 450228/2016

Jerome Smith and Leon Carter,

Defendant/Respondent.

**NOTICE OF COMMENCEMENT OF ACTION**  
**SUBJECT TO MANDATORY ELECTRONIC FILING**

PLEASE TAKE NOTICE that the matter captioned above has been commenced as an electronically filed case in the New York State Courts Electronic Filing System ("NYSCEF") as required by CPLR § 2111 and Uniform Rule § 202.5-bb (mandatory electronic filing). This notice is being served as required by that rule.

NYSCEF is designed for the electronic filing of documents with the County Clerk and the court and for the electronic service of those documents, court documents, and court notices upon counsel and unrepresented litigants who have consented to electronic filing.

Electronic filing offers significant benefits for attorneys and litigants, permitting papers to be filed with the County Clerk and the court and served on other parties simply, conveniently, and quickly. NYSCEF case documents are filed with the County Clerk and the court by filing on the NYSCEF Website, which can be done at any time of the day or night on any day of the week. The documents are served automatically on all consenting e-filers as soon as the document is uploaded to the website, which sends out an immediate email notification of the filing.

The NYSCEF System charges no fees for filing, serving, or viewing the electronic case record, nor does it charge any fees to print any filed documents. Normal filing fees must be paid, but this can be done on-line.

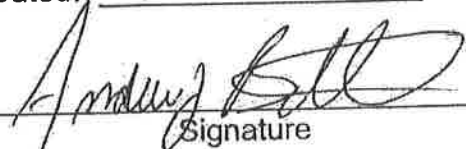
**Parties represented by an attorney:** An attorney representing a party who is served with this notice must either: 1) immediately record his or her representation within the e-filed matter on the NYSCEF site; or 2) file the Notice of Opt-Out form with the clerk of the court where this action is pending. Exemptions from mandatory e-filing are limited to attorneys who certify in good faith that they lack the computer hardware and/or scanner and/or internet connection or that they lack (along with all employees subject to their direction) the operational knowledge to comply with e-filing requirements. [Section 202.5-bb(e)]

**Parties not represented by an attorney:** Unrepresented litigants are exempt from e-filing. They can serve and file documents in paper form and must be served with documents in paper form. However, an unrepresented litigant may participate in e-filing.

For information on how to participate in e-filing, unrepresented litigants should contact the appropriate clerk in the court where the action was filed or visit [www.nycourts.gov/efile-unrepresented](http://www.nycourts.gov/efile-unrepresented). Unrepresented litigants also are encouraged to visit [www.nycourthelp.gov](http://www.nycourthelp.gov) or contact the Help Center in the court where the action was filed. An unrepresented litigant who consents to e-filing may cease participation at any time. However, the other parties may continue to e-file their court documents in the case.

For additional information about electronic filing and to create a NYSCEF account, visit the NYSCEF website at [www.nycourts.gov/efile](http://www.nycourts.gov/efile) or contact the NYSCEF Resource Center (phone: 646-386-3033; e-mail: [efile@nycourts.gov](mailto:efile@nycourts.gov)).

Dated: February 18, 2016

  
Signature

Andrew J. Botelho, Esq.

Name

NYPD - Legal Bureau

Firm Name

2 Lafayette Street, 5th Floor

Address

New York, NY 10007

917-454-1155

Phone

[andrew.botelho@nypd.org](mailto:andrew.botelho@nypd.org)

E-Mail

To: Jerome Smith, et. al.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

9/3/15

To: Zachary W. Carter  
From: Jerome Smith  
#441-15-09006  
Ind. # 450228/2016  
Date: 3/5/16  
Re: DEMAND TO PRODUCE COMPLAINT

Dear Mr. Carter,

My name is Jerome Smith and I am the "TITLE" holder of the 1999 Lexus identification number JT8BD68S1X0059881 that is being forfeiture by your clients.

Although I have just recieved your notice of summons on March 1, 2016 by the staff at this facility coupled with the fact that time is of essence, and, no question, its highly unlikely that I will be able to conduct appropriate research for motion purposes, however, I am responding to your summons in order to be in congruent with the time(20 days) allotted.

Therefore, consider this response and date of Affidavit of Service as being in compliance with the allotted time frame. It must be noted that I do not controll how this facility mail system, hence, date on Affidavit of Service suffices to establish my compliance.

Enclose you will find a copy of the voucher that was giving to me at the precient, with respect to the vehicle being forfeiture. Further, if there is any further questions that you may have concerning this issue please feel free to contactme at any time.

Moreover, please regard this response as demand to produe. Further, I reserve the right to seek an attorney in the near furture.

Sworn to before me this  
08 day of March, 2016

NOTARY PUBLIC



*Jerome Smith*  
Jerome Smith  
#441-15-09006  
Ind. # 450228/2016

Exhibit E (10f2)

## AFFIDAVIT OF SERVICE

STATE OF NEW YORK)

SS:

COUNTY OF BRONX )

Jerome Smith, being duly sworn, deposes and says:

That I have on this 8 day of March, 2016, placed and submitted in the postal receptacle in the New York City Correctional Facility known as the Vernon C. Bain Center, One Halleck Street, Bronx, New York 10474 a Notice of Demand to Produce Complaint, to be duly mailed via the United States Postal Service to the following parties in the above action:

ZACHARY W. CARTER, ESQ

CORPORATION COUNSEL,  
CITY OF NEW YORK

2 LAFAYETTE STREET

5th Floor  
NEW YORK, N.Y. 10007

Respectfully submitted,

Jerome Smith

Sworn to before me this

08 day of MARCH, 2016

NOTARY PUBLIC





Jerome Smith

Claimant

Notice of Intention  
to file claim

-against-

The City of New York

Property Clerk, New York City  
New York Police Department,  
106th Precinct

To: Comptroller Office  
Of The City Of New York

Police Officer Andres Gonzalez #18072 (Shield)

PLEASE TAKE NOTICE that the Claimant Herein hereby makes this claim and demand against the City of New York as follows:

[1] The Name and Post office address of the claimant is as follows:

Mr. Jerome Smith  
B&C# 441-15-09006  
GRVC  
09-09 HAZZEN STREET  
East Elmhurst, New York 11370

[2] The nature of the claim is as follows:

Claimant's vehicle, 1999 Lexus, was seized by Police Officer  
Gonzales at 106th Precinct and impounded without  
Authorization by his Supervisor (Sgt. Joseph Mascia), as a  
result of personal retaliation or vendetta.

[3] The time when and the place where such claim arose and the manner of the same are as follows:

On or about the 29th day of October 2015 claimant was  
stopped by P.O. Gonzales and others informing claimant that said vehicle  
was involved in an alleged crime. P.O. Gonzales drove claimant's vehicle to 106th  
Precinct and labeled said vehicle as arrest evidence (see enclosed copy); however,  
said vehicle was not approved by P.O. Gonzales supervisor (Sgt. Joseph Mascia),  
which incidentally, is pastoral at all precincts and policy & procedure of  
New Police Department Rules and Regulations. Therefore, by P.O. Gonzales deviation  
from proper channel personalized his actions. As a result, claimant was denied  
retrieving his vehicle at the precinct and impound. In turn, claimant demands  
compensation for damages to vehicle, lost of usage of vehicle, wear and tear  
of vehicle, and psychological torture.

Exhibit F (1 of 4)

[4] The items of damage or injuries sustained are as follows:

DAMAGES: 12,500  
Lost of USAGES: 12,500  
DEPRECIATION: 12,500  
TRANSPORTATION, EFFORTS, TIME CONSUMING: 12,500  
PSYCHOLOGICAL TORTURE: 200,000

The TOTAL sum claimed is: \$ 250,000

PLEASE TAKE FURTHER NOTICE that by reason of the foregoing in default of the City of New York to pay to the claimant his claim within the time limited for compliance with this demand by the city of New York by the applicable statutes, claimant intends to commence an action against the City of New York to recover his damages with interest and costs.

Dated: East Elmhurst, New York

May 17, 2016

  
CLAIMANT(S)



VERIFICATION

State of New York )  
County QUEENS ) s.s.  
City of EAST ELMHURST

I, Jerome Smith, being duly sworn, says: I am the claimant above named; I have read the foregoing notice of intention to file a claim against the State of New York and know its contents; the same is true to my own knowledge, except as to the matters therein stated to be alleged on information and belief, and as to those matters I believe it to be true.

Jerome Smith  
CLAIMANT(s)

Sworn to before me this

17<sup>th</sup> day of Aug 2016

[Signature]  
NOTARY PUBLIC

RUTH MARCANO  
NOTARY PUBLIC-STATE OF NEW YORK  
No. 01MA5088836  
Qualified in Nassau County  
My Commission Expires December 01, 2017

Affidavit of service

State of New York)

County of ~~Bronx~~ ) ss:

QUEENS

I, Jerome Smith, being duly sworn, deposes and says:

That I am the Claimant in the above-mentioned action and that I have on this 17 day of MAY, 2016, served by certified mail return receipt requested, a true copy of the within Notice of Intention to File Claim against the City of New York, upon the comptroller of the city of New York, at the below address:\

Office of the Comptroller  
Of The City of New York  
1 Centre Street, Room 1225  
New York, NY 10007

Respectfully Submitted,

Y Jerome Smith  
Claimant Pro-Se

Sworn to before me this

17 day of May, 2016

[Signature]  
Notary Public

RUTH MARCANO

NOTARY PUBLIC-STATE OF NEW YORK

No. 01MA5088836

Qualified in Nassau County

My Commission Expires December 01, 2017



THE CITY OF NEW YORK  
OFFICE OF THE COMPTROLLER  
CLAIMS AND ADJUDICATIONS  
1 CENTRE STREET ROOM 1200  
NEW YORK, N.Y. 10007-2341

WWW.COMPTROLLER.NYC.GOV

015 - 151

Scott M. Stringer  
COMPTROLLER

Date: 06/23/2016  
Claim No: 2016PI018986  
RE: Acknowledgment of Claim  
Your Claim/Policy#:

JEROME SMITH 4411509006  
09-09 HAZEN ST  
BRONX, NY 11370

Dear Claimant:

We acknowledge receipt of your claim, which has been assigned the claim number shown above. Please refer to this claim number in any correspondence or inquiry you may have with our office.

We will do our best to investigate and, if possible, settle your claim. However, if we are unable to resolve your claim, **any lawsuit against the City must be started within one year and ninety days from the date of the occurrence.**

If you have any questions regarding your claim, you may contact us at either 212-669-8750 for property damage claims, or 212-669-2478 for claims involving personal injury.

Sincerely,

Bureau of Law & Adjustment

RECEIVED ON 6/28/16

Exhibit G (1 of 1)



**THE CITY OF NEW YORK OFFICE OF THE COMPTROLLER**  
1 CENTRE STREET, NEW YORK, N.Y. 10007-2341

**Scott M. Stringer**  
COMPTROLLER

015 - 155

Date: 06/24/2016  
RE: Disallowance-Over 90 Days

JEROME SMITH 441-15-09006  
Claim number: 2016PI018986

JEROME SMITH 441-15-09006  
09-09 HAZEN ST  
BRONX, NY 11370

Dear Claimant:

We regret to inform you that your claim has been disallowed. Your claim was not filed within 90 days from the date of occurrence as required by the General Municipal Law Section 50-e. Claims must be filed with either the New York City Office of The Comptroller, the New York City Law Department, the New York City Board of Education or the New York City Health and Hospitals Corporation, depending on the substance of the claim.

If you have been scheduled for a Comptroller's hearing (50-h, General Municipal Law), please deem the hearing canceled.

Very truly yours,

  
KRYSTYNA BORKOWSKA.

Bureau of Law & Adjustment

PERSONAL INJURY  
(212) 669-2232

RECEIVED ON 7/1/16

Exhibit H (1 of 1)



**NYPD/PETS** PROPERTY AND EVIDENCE  
TRACKING SYSTEM  
Property Clerk Invoice  
PO 021449064 1109



Invoice No. 4000351137

Assigned	By	Name	Task No.	Comments	Date	Time
Assigned By	POW	GONZALEZ, ANDRES	94311	100TH PRECINCT	10/29/2015	16:30
Issued By	POW	GONZALEZ, ANDRES	94311	100TH PRECINCT	10/29/2015	16:30
Approved By	SGT	MASCI, JOSEPH	903564	100TH PRECINCT	10/29/2016	16:38



Invoice No. 4000351137

Arresting Officer Copy  
printed: 10/29/2015 16:38

POD Storage No. --

Page No. 2 of 2

Exhibit 1



**NYPD/PETS** PROPERTY AND EVIDENCE  
TRACKING SYSTEM  
Property Clerk Invoice  
PO 021449064 1109



Invoice No. 4000351137

Issued Date: 10/29/2015  
Property Type: JEWELRY  
Task No.: 94311  
Comments: 100TH PRECINCT  
Assigned: POW GONZALEZ, ANDRES  
Investigating: SGT MASCI, JOSEPH  
On Site Supervisor: N/A  
Officer: N/A  
Status: OPEN

Item 1: BRACELETS  
MAKE: UNK. COLOR: YELLOW METAL  
SERIAL NO: 790359  
Watches: UNK. COLOR: YELLOW METAL  
LEAD SER. NO.: 790359

Item 2: WATCHES  
MAKE: UNK. COLOR: YELLOW METAL  
LEAD SER. NO.: 790359

Item 3: LEAD SER. NO.: 790359

REMARKS:  
34311 10/29/2015 16:38 : ABOVE ITEMS VOUCHERED AS UNK. OWNER. JIE#110062837

Item No.	Item Description	Quantity	Unit	Value	Disposition
1	BRACELETS	1	EA	110062837	REFUSED
2	WATCHES	2	EA	110062837	REFUSED
3	LEAD SER. NO.: 790359	1	EA	110062837	REFUSED



Invoice No. 4000351137

Arresting Officer Copy  
printed: 10/29/2015 16:38

POD Storage No. --

Page No. 1 of 2









**NYPD PETS** PROPERTY AND EVIDENCE  
TRACKING SYSTEM  
PROPERTY CLERK INVOICE  
FD-503 (Rev. 11/99)



Invoice No. 4000351142

Issuing Office  
106TH PCT.

Invoice Date  
10/29/2015

Property Type  
GENERAL PROPERTY

ARREST EVIDENCE

Officer	Rank	Name	Unit No.	Command	Case No.	Case Title	Case Status	Case Date	Case Time	Case Location	Case Remarks
POW	POW	GONZALEZ, ANDRES	94311	106TH PRECINCT	94311	106TH PRECINCT	OPEN	10/29/2015	16:47	106TH PRECINCT	106TH PRECINCT
Investigating	N/A										
On-Sight Supervisor	N/A										
On-Sight Investigator	N/A										
Item	1	106TH CITY	106TH CITY	106TH CITY	106TH CITY	106TH CITY	106TH CITY	106TH CITY	106TH CITY	106TH CITY	106TH CITY
Item Description											
Item Remarks											

REMARKS: 94311 10/29/2015 16:47 : ABOVE ITEM IS BEING VOUCHERED AS ARREST EVIDENCE 917202468020

Date Created	Item Description	Item Status	Item Location	Item Remarks
10/29/2015	106TH CITY	106TH CITY	106TH CITY	106TH CITY

Item No.	Item Description	Item Status	Item Location	Item Remarks
1	SMITH, JEROME	106TH CITY	106TH CITY	106TH CITY
2	GONZALEZ, ANDRES	106TH CITY	106TH CITY	106TH CITY
3	SMITH, JEROME	106TH CITY	106TH CITY	106TH CITY
4	SMITH, JEROME	106TH CITY	106TH CITY	106TH CITY
5	SMITH, JEROME	106TH CITY	106TH CITY	106TH CITY
6	SMITH, JEROME	106TH CITY	106TH CITY	106TH CITY
7	SMITH, JEROME	106TH CITY	106TH CITY	106TH CITY
8	SMITH, JEROME	106TH CITY	106TH CITY	106TH CITY
9	SMITH, JEROME	106TH CITY	106TH CITY	106TH CITY
10	SMITH, JEROME	106TH CITY	106TH CITY	106TH CITY



Invoice No. 4000351142

Arresting Officer Copy  
printed: 10/29/2015 16:52

FD-503 (Rev. 11/99)

Page No. 1 of 1

Exhibit 3

**INJURIES:**

If you were injured as a result of these actions, describe your injuries and what medical treatment, if any, you required and received.

Plaintiff have suffered enormous amount of emotional stress and mental anguish, weight loss, anxiety, headaches, and sleep deprivation (medications: Ibepophren and Teylonol)

**VI. RELIEF**

State briefly what money damages or other relief you want the court to order.

Plaintiff seeks damages to vehicle from each defendant in thier individual and official capacity in the amount of 12,500. Also, Plaintiff seeks damages from each defendant in thier individual and official capacity for the following; lost of usage of vehicle (12,500); Depreciation of vehicle(12,500); cost,time consuming, and efforts (12,500); and physcological trauma (200,000). Plain-tiff also seeks punitive damages from each defendant in their individual and official capacity in the amount of 250,000 dollar total amount equals to 500,000 dollars

**VII. PLAINTIFF'S CERTIFICATION AND WARNINGS**

By signing below, I certify to the best of my knowledge, information, and belief that: (1) the complaint is not being presented for an improper purpose (such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation); (2) the claims are supported by existing law or by a nonfrivolous argument to change existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Federal Rule of Civil Procedure 11.

I understand that if I file three or more cases while I am a prisoner that are dismissed as frivolous, malicious, or for failure to state a claim, I may be denied *in forma pauperis* status in future cases.

I also understand that prisoners must exhaust administrative procedures before filing an action in federal court about prison conditions, 42 U.S.C. § 1997e(a), and that my case may be dismissed if I have not exhausted administrative remedies as required.

I agree to provide the Clerk's Office with any changes to my address. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Each Plaintiff must sign and date the complaint. Attach additional pages if necessary. If seeking to proceed without prepayment of fees, each plaintiff must also submit an IFP application.

<u>7/9/16</u>		<u>Without Prejudice</u>
Dated		Plaintiff's Signature
<b>Jerome</b>		<b>Smith</b>
First Name	Middle Initial	Last Name
<b>09-09 Hazzen Street</b>		
Prison Address		
<b>East Elmhurst</b>	<b>N.Y.</b>	<b>11370</b>
County, City	State	Zip Code

Date on which I am delivering this complaint to prison authorities for mailing:

7/9/16

JEROME Smith  
#441-15-09006 (15B-31C211)  
GRUC  
09-09 HAZZEN St.  
East Elmhurst N.Y. 11370

RECEIVED  
SONY PRO CE OFFICE  
2015 JUL 15 AM 9:31

USNY  
KSM<sup>3</sup>

10: /  
P20 SE Intake Unit  
500 Pearl Street  
New York, N.Y. 10007



8 1000